

REMARKS/ARGUMENTS

Prior to this Response, an Office Action was mailed July 11, 2008. In the Office Action, Examiner issued a final rejection of all claims. Claims 1-22 were rejected under 35 U.S.C. § 112 as indefinite. Claims 1-22 were rejected under 35 U.S.C. § 103(a) as obvious over cited references.

In this Response, Applicant traverses all rejections. Applicant presents amended claims in order to place the claims in a better form for consideration on appeal under 37 C.F.R. §1.116(b). Applicant is filing a separate Notice of Appeal concurrent with these Amendments.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Claims 1-22 are now pending in the present application. In addition to the above amendments, the Applicant makes the following remarks regarding individual issues:

THE APPLICANT'S TIME TO RESPOND

The last Office Action was mailed on July 11, 2008. The three-month initial deadline for responding without having to pay a penalty fee ends on October 14, 2008. In determining the timeliness of this filing, Applicant asks the Patent Office to note Applicant's 37 C.F.R. § 1.8 Certificate of Transmission and the Federal holiday on October 13, 2008.

THE INDEFINITENESS REJECTIONS

Examiner rejected claims 1-22 for indefiniteness based on the use of "convex" in describing the lower contact portion of the eye fixation apparatus. Applicant has already

argued in prior responses that "convex" refers to the overall shape of the bottom contact portion (see Figs. 3 and 4, #14) so as to match the convex shape of the eyeball, though the bottom surface of the lower contact portion would be considered concave (see Figs. 3 and 4, #16 *criss cross channels on bottom surface*; Specification at p.6, ll. 8-9 "annular convex contact portion 14 which is shaped to conform to the surface of the eye globe and to encircle the cornea"). Applicant argues that this meaning - convex overall shape having a concave bottom surface - is clear from the Drawings and the Specification and that the issue is merely one of perspective - convex when viewed from above, concave when viewed from below.

Applicant believes that, although the claims as originally written were clear to a person of ordinary skill in the art, that the amendments presented herein will clarify the issues for appeal and place the application in better form for consideration on appeal.

Claims 1, 11 and 22 are amended as follows:

1. An eye fixation apparatus, comprising:

an eye fixation portion, wherein the eye fixation portion has an annular convex bottom contact portion, said convex bottom contact portion including a concave bottom surface, which goes upon the surface of an eyeball and encircles the cornea, and wherein the contact portion bottom surface is provided with criss-crossing channels; and

a vacuum port connected to said eye fixation portion and in communication with said criss-crossing channels such that vacuum pressure applied to said vacuum port exerts vacuum pressure through such criss-crossing channels to pull the eyeball membrane to the criss-crossing channels.

11. A method of fixating an eye cornea for surgery, comprising:

placing an eye fixation apparatus upon the eye globe conjunctiva around the cornea, wherein the eye fixation apparatus comprises an eye fixation portion with an annular convex bottom contact portion, said convex bottom contact portion including a concave bottom surface, provided with criss-crossing channels, and a vacuum port connected to said eye fixation portion and in communication with said criss-crossing channels such that vacuum pressure applied to said vacuum port exerts vacuum pressure through such criss-crossing channels to pull the eyeball membrane to the criss-crossing channels; and

applying vacuum pressure to said vacuum port creating a

pressure differential through said criss-crossing channels in relation to said conjunctiva, adhering said conjunctiva to said contact portion bottom surface.

22. An eye fixation apparatus, comprising:

an eye fixation portion, wherein the eye fixation portion has a low-profile annular convex bottom contact portion, said convex bottom contact portion including a concave bottom surface, which goes upon the surface of an eyeball and encircles the cornea, and wherein the contact portion bottom surface is provided with criss-crossing channels;

a vacuum port connected to said eye fixation portion and in fluid communication with said criss-crossing channels;

a first annular translation guide member with a first translation rod and first adjustment knob, adjustably connected to the eye fixation portion, wherein the first translation guide member portion can translate laterally in relation to the eye fixation portion using said first adjustment knob acting upon said first translation rod;

a second annular translation guide member with a second translation rod and second adjustment knob, adjustably connected to the first translation guide member, wherein the second translation guide member portion can translate laterally in relation to the first translation guide member and eye fixation portion using said second adjustment knob acting upon second first translation rod;

a first and a second docking screw screwed through said first and second translation guide members, respectively, and for tightening the first and second translation guide members against objects inserted into the cylindrical space formed by the first and second annular translation guide members; and

wherein, the profile of said eye fixation portion is substantially narrow so as to fit under the eye lid of a patient without use of a lid speculum.

Support for the amendments is found in the Specification at p. 6, ll. 6-14; p. 11, ll. 8-19, and Figs. 3 and 4, showing #14 bottom contact portion having a convex shape with a concave bottom surface which "is shaped to conform to the surface of the eye globe and to encircle the cornea."

Additionally, claim 12 has been amended to correct an informality in the depending clause referring to "claims 11" rather than "claim 11". Claim 12 is amended to read:

12. The method of claims 11, further comprising:

checking to see said eye fixation apparatus is centered around the cornea; and

shutting off the vacuum pressure if said eye fixation apparatus is not centered around the cornea, recentering said eye fixation apparatus, and reapplying said vacuum pressure.

CONCLUSION

For the foregoing reasons, Applicant requests Examiner enter the amendments into the record for consideration on appeal. The Examiner is encouraged to telephone the undersigned at (360) 750-9931 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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